

897

74
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054

No. F.DE.15 (18)/PSB/2019 /949-953

Dated: 23/01/19

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and directed that the private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"27....

(c) *It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...*

28. *We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.....*

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule 172, 173, 175 and 177 of Delhi School Education Rules 1973, Directorate of Education

~

has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **G.L.T Saraswati Bal Mandir, Ring Road, Nehru Nagar, New Delhi - 110065 (School Id: 1924139)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7th CPC with effect from 01.01.2016.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, school was provided opportunity for discussion on July 17, 2018 along with submission of necessary records and explanations but no response was received from the school. Further, school was provided another opportunity to appear for discussion on July 23, 2018 but neither the school turned up for discussion nor any communication was received for adjournment of hearing. Further, taking a lenient view, one more opportunity was provided for discussion by rescheduling the date for discussion on August 06, 2018 but again neither the school turned up for discussion nor any communication was received for adjournment of hearing. Further, school was sent a letter on August 06, 2018 by post to cooperate with the department in evaluation of fee increase proposal yet again no response received from the school. Therefore, it can be concluded that the school do not have any documents /explanations to offer in respect of their fee increase proposal.

AND WHEREAS, the documents uploaded on the web portal for fee increase submitted by the school were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

- I. As per clause 2 of the Public Notice dated 4 May 1997 stated "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school

may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more of the specified education expenses. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the school funds.

However, the school has incurred Rs.70,43,041 in FY 2016-17 for construction of building in contravention of the aforesaid provisions. Therefore, the school is directed to recover Rs. 70,43,041 from the society.

II. In respect of earmarked levies, school is required to comply with:

- Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, during FY 2014-15, 2015-16 and 2016-17, the school has charged earmarked levy in the form of Transportation Fee, Science Fee, Computer Fee, IT & assignment Fee and Medical Fee but these levies were not charged on 'no profit no loss' basis. The school has earned surplus from all earmarked levies and has not followed fund based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment in Income & Expenditure account for the surplus earned on these earmark levies.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprise of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Considering the aforesaid provisions, the earmarked levies should be collected from the user students only availing the services/ facilities and if such service/facilities has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the Tuition Fee or from the Annual Charges. Therefore, the school is directed to look into the matter and stop the collection of separate earmarked levies in the name of Computer Fee, IT & assignment Fee and Medical Fee.

4

- III. The school incurred expenditure of Rs.2,42,70,000, Rs.1,40,00,000 and Rs.1,30,00,000 in FY 2014-15, 2015-16 and 2016-17 respectively under the head "Samarpan Rashi". Since the school did not come for the discussion on various appointed dates as mentioned above thus the nature and need for this expenditure cannot be ascertained. Therefore, the school is directed to submit the complete details about this expenditure within stipulated time mentioned in this Order. Otherwise, the same shall be treated as part of the fund available with the school in the evaluation of fee increase proposal of the ensuing year.

Other Irregularities

- I. The school has not charged depreciation on building in FY 2014-15, 2015-16 and 2016-17 as required by Revised Accounting Standard -10 "Property, Plant and Equipment" resulting overstatement of Reserve Fund. Therefore, the school is directed to compute and charge depreciation to the income and expenditure account in compliance with the Accounting Standard Issued by ICAI.

- II. As per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprise of "registration fee and all One Time Charges" levied at the time of admission such as admission fee and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.
 On review of fee structure for FY 2014-15, the school has charged pupil fund and scholarship fee from the students of all classes. Considering the aforesaid provisions, the school is directed to stop the collection of pupil fund and scholarship fee from the students of all classes.

- III. An E-mail was sent to the school on July 17, 2018, July 23, 2018 and August 06, 2018 to provide the additional documents and appear for discussion but no response was received from the school. Further, letter was also sent to school on 06 August, 2018 to appear for the discussion on the appointed date mentioned in the letter. Despite of the repetitive reminders sent to school as mentioned above, the school neither submitted the required documents/explanations nor appeared for discussion. Therefore, it can be concluded that the school do not have any further documents/explanations to offer in respect of their fee increase proposal. The lists of documents/ explanations which the school has not provided are given below.
 - a. Original fee receipts issued during the financial year 2014-15, 2015-16 and 2016-17 for each class (at least 2 students)
 - b. Copy of fee collection registers for the financial year 2014-15, 2015-16 and 2016-17

- c. Item-wise details/breakup/justification for the proposed increase (or decrease) for all revenue expenditure and capital expenditures as per budgeted statement for session 2017-18 against actual expenditure incurred during 2016-17 along with relevant documents to substantiate its claim
- d. Copy of salary payment register (or Pay bill register) for two months before implementation of 7th CPC and two months after implementation of 7th CPC alongwith proof of disbursements of salaries and arrears
- e. Copy of TDS return and PF return for the financial year 2016-17
- f. Statement of surplus or deficit in respect of each earmarked levies namely Transportation Charges and Meal charges showing collection of fee under these heads and expenditure incurred against that
- g. Whether provision for gratuity and leave encashment were made on the basis of actuarial valuation? If yes, please provide me the details.
- h. Details of secured loan taken from Bank is required from school (nature of loan, source of repayment, purpose for taking loan etc.)
- i. Details of building transferred in FY 2014-15 along with copy of ledger of society and details of payment to society.
- j. Details and documents of car/ buses, date and cost of purchase, source of financing
- k. School needs to submit the detailed calculation of fee collected during the year 2014-15, 2015-16 and 2016-17 (i.e. number of student as per EWS scheme/ other students, fee structure, computation of fee for the year 2016-17 etc.)
- l. Details of return filled with district under rule 180 for the year 2016-17 is to be submit by school.
- m. Justification on non-preparing the financial statements in accordance with Appendix-II of order dated 16.04.2016.
- n. Whether the school has filed statement of fees by 31st March for the years 2015-16 and 2016-17 before the commencement of the academic session under section 17(3) of the Act. If yes, please provide the details.
- o. Whether school is collecting donation in any name from the students at the time of admission? If yes, please provide the details.
- p. Details of utilization of Development Fund, Pupil Fund and Scholarship Fund.
- q. Is there any complaint of parents against school in relation to fee hike? If yes, whether the same has been duly disposed of?
- r. Detailed calculation of late fee/fine collected during the year 2014-15, 2015-16 and 2016-17.

After detailed examination, considering all the material on record it was finally evaluated/ concluded that:

- i. The total funds available for the year 2017-18 amounting to **Rs. 14,92,33,581** out of which cash outflow in the year 2017-18 is estimated to be **Rs. 12,03,84,341**. This results in net surplus amounting to **Rs. 2,88,49,240**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	65,93,690
Investments as on 31.03.17 as per audited Financial Statements	2,77,31,036
Add: Recoverable from society for construction of building in FY 2016-17	70,43,041
Less: Development Fund as on 31.03.2017	21,81,128
Total	3,91,86,639
Fees for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	10,62,41,886
Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	38,05,056
Estimated availability of funds for FY 2017-18	14,92,33,581
Less: Budgeted expenses for the session 2017-18 (after making adjustment) - Refer Note 1 & 2	12,03,84,341
Net Surplus	2,88,49,240

Note 1: The school has proposed capital expenditure of Rs. 2,00,00,000 for building which is in contravention of clause 2 of public notice dated May 04, 1997 and therefore should be borne by the society only. Thus, amount proposed for building by the school in budget 2017-18 has not been considered in the evaluation of fee increase proposal.

Note 2: As per judgement of Hon'ble SC in the case of Modern School Vs Union of India and Others, the capital expenditure shall not form part of fee structure of the school. Also, facility of buses are not availed by each student of the school. In view of the aforesaid provisions, the amount proposed for purchase of bus amounting Rs. 22,50,000 in budget 2017-18 has not been considered in the evaluation of fee increase proposal.

- ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that prima facie sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **G.L.T. Saraswati Bal Mandir Sr Sec School, Ring Road, Nehru Nagar, New Delhi - 110065 (School Id: 1924139)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

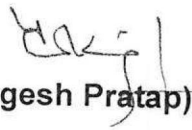
1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by The Directorate of Education.
3. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.
5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.
6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities will also be attached.



907

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 1973.

This order is issued with the prior approval of the Competent Authority.


(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi


To
The Manager/ HoS
G.L.T Saraswati Bal Mandir Sr Sec School
Ring Road, Nehru Nagar
Delhi – 110065, (School Id: 1924139)

No. F.DE.15 (18)/PSB/2019 1949-953

Dated: 23/01/2019

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.


(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi